

B-Engrossed House Bill 3279

Ordered by the Senate June 7
Including House Amendments dated May 10 and Senate Amendments
dated June 7

Sponsored by Representative GALIZIO; Representatives BARKER, BOONE, BUCKLEY, CANNON, HUNT, NOLAN,
READ, ROSENBAUM, SHIELDS, TOMEI, WITT, Senator WALKER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that public high school student journalists have right to exercise freedom of speech and press in school-sponsored media. Allows civil cause of action by student or parent or guardian.

Directs that student journalists are responsible for determining content of school-sponsored media. Provides limitations for content determined by students.

[Provides that school-sponsored media produced primarily by students at public institution of higher education are public forums for expression by student journalists.] Allows civil cause of action by student journalists enrolled at public institution of higher education.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to student journalists; and declaring an emergency.

3 Whereas the Legislative Assembly finds that freedom of expression and freedom of the press are
4 fundamental principles in our democratic society granted to every citizen of the nation by the First
5 Amendment to the United States Constitution and to every resident of this state by section 8, Arti-
6 cle I of the Oregon Constitution; and

7 Whereas these freedoms provide all citizens, including students, with the right to engage in ro-
8 bust and uninhibited discussion of issues; and

9 Whereas the Legislative Assembly intends to ensure free speech and free press protections for
10 both high school students and students at institutions of higher education in this state in order to
11 encourage students to become educated, informed and responsible members of society; now, there-
12 fore,

13 **Be It Enacted by the People of the State of Oregon:**

14 **SECTION 1. (1) For the purposes of this section:**

15 (a) **“School-sponsored media” means materials that are prepared, substantially written,**
16 **published or broadcast by student journalists, that are distributed or generally made avail-**
17 **able, either free of charge or for a fee, to members of the student body and that are prepared**
18 **under the direction of a student media adviser. “School-sponsored media” does not include**
19 **media intended for distribution or transmission solely in the classrooms in which they are**
20 **produced.**

21 (b) **“Student journalist” means a public high school student who gathers, compiles,**
22 **writes, edits, photographs, records or prepares information for dissemination in school-**
23 **sponsored media.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (c) "Student media adviser" means a person who is employed, appointed or designated
2 by the school district to supervise, or provide instruction relating to, school-sponsored me-
3 dia.

4 (2) Except as provided in subsection (4) of this section, student journalists have the right
5 to exercise freedom of speech and of the press in school-sponsored media, whether or not the
6 media are supported financially by the school or by use of school facilities or are produced
7 in conjunction with a high school class.

8 (3) Student journalists are responsible for determining the news, opinion and feature
9 content of school-sponsored media subject to the limitations of subsection (4) of this section.
10 This subsection does not prevent a student media adviser from teaching professional stan-
11 dards of English and journalism to the student journalists.

12 (4) Nothing in this section may be interpreted to authorize expression by students that:

13 (a) Is libelous or slanderous;

14 (b) Constitutes an unwarranted invasion of privacy;

15 (c) Violates federal or state statutes, rules or regulations or state common law; or

16 (d) So incites students as to create a clear and present danger of:

17 (A) The commission of unlawful acts on or off school premises;

18 (B) The violation of school policies; or

19 (C) The material and substantial disruption of the orderly operation of the school. A
20 school official must base a forecast of material and substantial disruption on specific facts,
21 including past experience in the school and current events influencing student behavior, and
22 not on undifferentiated fear or apprehension.

23 (5) Any student, individually or through the student's parent or guardian, enrolled in a
24 public high school may commence a civil action to obtain damages under this subsection and
25 appropriate injunctive or declaratory relief as determined by a court for a violation of sub-
26 section (2) of this section, the First Amendment to the United States Constitution or section
27 8, Article I of the Oregon Constitution. Upon a motion, a court may award \$100 in damages
28 and injunctive and declaratory relief to a prevailing plaintiff in a civil action brought under
29 this subsection.

30 (6) Each school district that includes a public high school shall adopt a written student
31 freedom of expression policy in accordance with this section. The policy shall include rea-
32 sonable provisions for the time, place and manner of student expression.

33 **SECTION 2.** (1) For the purposes of this section:

34 (a) "Public institution of higher education" means:

35 (A) A community college;

36 (B) A state institution of higher education listed in ORS 352.002; and

37 (C) The Oregon Health and Science University.

38 (b) "School-sponsored media" means materials that are prepared, substantially written,
39 published or broadcast by student journalists, that are distributed or generally made avail-
40 able, either free of charge or for a fee, to members of the student body and that are prepared
41 under the direction of a student media adviser. "School-sponsored media" does not include
42 media intended for distribution or transmission solely in the classrooms in which they are
43 produced.

44 (c) "Student journalist" means a student who gathers, compiles, writes, edits, photo-
45 graphs, records or prepares information for dissemination in school-sponsored media.

1 (d) "Student media adviser" means a person who is employed, appointed or designated
2 by a public institution of higher education to supervise, or provide instruction relating to,
3 school-sponsored media.

4 (2) Student journalists are responsible for determining the news, opinion, feature and
5 advertising content of school-sponsored media. This subsection does not prevent a student
6 media adviser from teaching professional standards of English and journalism to the student
7 journalists.

8 (3) Nothing in this section may be interpreted to authorize expression by students that:

9 (a) Is libelous or slanderous;

10 (b) Constitutes an unwarranted invasion of privacy;

11 (c) Violates federal or state statutes, rules or regulations or state common law; or

12 (d) So incites students as to create a clear and present danger of:

13 (A) The commission of unlawful acts on or off school premises;

14 (B) The violation of school policies; or

15 (C) The material and substantial disruption of the orderly operation of the school. A
16 school official must base a forecast of material and substantial disruption on specific facts,
17 including past experience in the school and current events influencing student behavior, and
18 not on undifferentiated fear or apprehension.

19 (4) Any student enrolled in a public institution of higher education may commence a civil
20 action to obtain damages under this subsection and appropriate injunctive or declaratory
21 relief as determined by a court for a violation of subsection (2) of this section, the First
22 Amendment to the United States Constitution or section 8, Article I of the Oregon Consti-
23 tution. Upon a motion, a court may award \$100 in damages and injunctive and declaratory
24 relief to a prevailing plaintiff in a civil action brought under this subsection.

25 SECTION 3. (1) Section 1 of this 2007 Act first applies to the 2007-2008 school year.

26 (2) Section 2 of this 2007 Act first applies to the academic term beginning fall 2007.

27 SECTION 4. This 2007 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
29 July 1, 2007.

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